

STATE OF NEW JERSEY
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION ON CIVIL RIGHTS
DOCKET NO. PV09HI-64353

K.K.,)	
)	
Complainant,)	<u>Administrative Action</u>
)	
v.)	FINDING OF NO
)	PROBABLE CAUSE
Wells Fargo Bank,)	
)	
Respondent.)	

On February 4, 2014, K.K. (Complainant) filed a verified complaint with the New Jersey Division on Civil Rights (DCR) alleging that Wells Fargo Bank (Respondent) discriminated against him based on his disability, in violation of the New Jersey Law

Against Discrimination (LAD), N.J.S.A. 10:5-1 to -

49. Respondent denied the allegations of discrimination in their entirety. After reviewing the DCR's ensuing investigation, the Director finds as follows.

Complainant, a Linden resident, has been diagnosed with a form of juvenile macular degeneration and is legally blind. He cannot read any print smaller than a 20.5 font. He alleged that on numerous occasions including on or about December 12, 2013, he notified Respondent that the fonts on the display screens of its automated teller machines (ATMs) were too small for him to

read, and asked that Respondent increase the text to a 20 - 22 point font. Respondent declined.

Respondent, a financial institution with banking facilities in New Jersey including Linden, admitted receiving Complainant's requests to change its ATMs to accommodate his vision impairment. Respondent claims that its ATMs are equipped with a number of features such as an audio and speech output function specifically designed for users who are blind or have low vision,¹ and that it told Complainant about those features and offered to

¹ Respondent states that its ATMs also have tactile numeric keypad, tactile function buttons, and Braille instructions for initiating the audio feature.

send him a free set of earphones to use when accessing its ATMs. Respondent also claims that it is redesigning its ATMs, which will result in a larger font size on the displays screens. Respondent states that the “target date for implementing the redesigned ATM user interface is presently the end of 2014.” See Letter from Thomas Jacob to DCR, Apr. 17, 2014, p. 5.

Complainant did not refute Respondent’s assertions but maintains that Respondent’s conduct amounts to a violation of the LAD.

The LAD makes it illegal for places of public accommodation “directly or indirectly to refuse,

withhold from or deny to any person any of the accommodations, advantages, facilities or privilege thereof, or to discriminate against any person in the furnishing therefore” on the basis of disability.

N.J.S.A.10:-12(f). Places of public accommodation must make “reasonable accommodations” to the limitations of a patron with a disability, including “making such reasonable modifications in policies, practices, or procedures, as may be required to afford goods, services, facilities, privileges, advantages, or accommodations to a person with a disability,” unless it can demonstrate that the accommodation would impose an undue hardship

on its operations. N.J.A.C. 13:13-4.11 (a). The LAD does not require a place of public accommodation to provide the exact accommodation requested by the patron in precisely the manner demanded. Cf. Victor v. State, 203 N.J. 383, 424 (2010) (“[I]f more than one accommodation would allow the individual to perform the essential functions of the position, the employer . . . has the ultimate discretion to choose between effective accommodations, and may choose the less expensive accommodation or the accommodation that is easier for it to provide.”) Although Victor dealt with requests for

accommodations in the workplace, the same principal applies to places of public accommodation. A place of public accommodation can select the means of providing the reasonable accommodation to the patron, provided it is effective. See generally Franek v. Tomahawk Lake Resort, 333 N.J. Super. 206, 216-17 (App. Div. 2000), cert. den'd 166 N.J. 606 (2000).

At the conclusion of an investigation, the DCR Director is required to determine whether “probable cause exists to credit a complainant’s allegations of the verified complaint.” N.J.A.C. 13:4-10.2. For purposes of that determination, “probable cause” is

defined as a “reasonable ground for suspicion supported by facts and circumstances strong enough in themselves to warrant a cautious person to believe that the [LAD] has been violated” and that the matter should proceed to hearing. Ibid., Frank v. Ivy Club, 228 N.J. Super. 40, 56 (App. Div. 1988), rev’d on other grounds, 120 N.J. 73 (1990), cert. den. 111 S.Ct. 799. If the Director determines that probable cause exists, then the matter will proceed to a hearing on the merits. N.J.A.C. 13:4-11.1(b). However, if the Director finds that there is no probable cause, then the finding is deemed a final

agency order subject to review by the Appellate Division. N.J.A.C. 13:4-10(e).

In this case, Respondent does not dispute that it is a place of public accommodation for purposes of the LAD, that K.K. is a person with a disability, or that it has a duty to provide reasonable accommodations in its policies, practices, or procedures, for its patrons. It merely argues that there is insufficient evidence that it failed to meet those obligations.

The Director agrees. Respondent equipped its ATMs, including the Linden location, with an audio and speech output function that provides access to

customers with vision impairments. It offered to send a free set of earphones to Complainant. Complainant does not allege that he has any sort of hearing impairment that would hinder his ability to use those features. However, he would prefer that Respondent enlarge the font on the display screen. Although Respondent's audio and speech functionality and offer of free earphones may not be the precise accommodation Complainant seeks, it is a reasonable accommodation that would provide Complainant with access to the ATM.

WHEREFORE, it is on the 19th day of MAY

2014, determined and found that no probable cause

exits to credit Complainant's allegations of discrimination.



Craig Sashihara, Director
NJ DIVISION ON CIVIL RIGHTS